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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

JEFF HATCH-MILLER Chairman
WILLIAM A. MUNDELL Commissioner
MARC SPITZER Commissioner
MIKE GLEASON Commissioner
KRISTIN K. MAYES Commissioner

DOCKETED

JUN 16 2005

IN THE MATTER OF THE FORMAL
COMPLAINT OF ACCIPITER
COMMUNICATIONS, INC. AGAINST
VISTANCIA COMMUNICATIONS,
L.L.C., SHEA SUNBELT PLEASANT
POINT, L.L.C., AND COX ARIZONA
TELCOM, LLC

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ACCIPITER'S FILING REGARDING CURRENT
STATUS OF EFFORTS TO RESOLVE THIS MATTER
THROUGH NEGOTIATION

As requested by the Administrative Law Judge at the June 9, 2005, oral argument relating to Cox's Motion to Dismiss, Accipiter, by and through undersigned counsel, provides the following statement regarding efforts to explore voluntary resolution.


The parties, Accipiter, Cox, and Shea Sunbelt Pleasant Point, L.L.C. n/k/a Vistancia L.L.C., met with Staff on Tuesday, June 14, 2005. As requested by the Administrative Law Judge we discussed Mr. Grant's letter relating to the MUE/PUE issues, and the parties further explored other issues relating to possible settlement. We believe the discussions were helpful and that the parties appeared to be participating in good faith. A second meeting among the parties to discuss additional possible settlement issues is currently scheduled for Tuesday, June 21, 2005.

Accipiter intends on continuing to engage in settlement discussions and will attend Tuesday's meeting. As long as the negotiations appear to Accipiter to be fruitful and to continue to progress very quickly in good faith toward possible settlement, Accipiter will hold off filing the Amended Complaint and certain other pleadings that we have planned to

1 submit. However, particularly in light of the daily foreclosure of competitive opportunities
2 with the ongoing building at Vistancia, Accipiter must reserve the right to file an Amended
3 Complaint and request an expedited evidentiary hearing if in its judgment the settlement
4 discussions are not proceeding very quickly or are not continuing to be constructive.

5 RESPECTFULLY SUBMITTED this 16th day of June, 2005.

6 MORRILL & ARONSON, P.L.C.

7
8 By 
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16 ORIGINAL and 13 copies of the foregoing
17 filed this 16th day of June, 2005 with:

18 Docket Control
19 Arizona Corporation Commission
20 1200 West Washington Street
21 Phoenix, Arizona 85007

22 COPY of the foregoing hand-delivered
23 this 16th day of June, 2005 to:

24 Dwight D. Nodes, Esq.
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26 Hearing Division
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7 this 16th day of June, 2005 to:

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